

In the Matter Of:

IN RE STEPHEN FRANKO

STEPHEN FRANKO

August 02, 2016



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08/02/2016

FRANKO STEPHEN
IN RE STEPHEN FRANKO

1
2 INTERVIEW OF)
3 STEPHEN FRANKO)
4

5 The continued sworn statement of STEPHEN
6 FRANKO, taken in the above-entitled cause, before
7 Angela M. Ingham, a Notary Public within and for
8 the County of Cook and State of Illinois, and a
9 Certified Shorthand Reporter of said state, at
10 300 West Adams Street, Suite 800, Chicago,
11 Illinois, on August 2, 2016, at the hour of
12 9:11 a.m.

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1 APPEARANCES:

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14 On behalf of the Office of
15 Inspector General;

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18 PROTECTIVE ASSOCIATION LABOR
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25 On behalf of Stephen Franko.

1	I N D E X	
2	WITNESS	EXAMINATION
3	STEPHEN FRANKO	
4	By Ms. Ansari	5
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9	E X H I B I T S		
10	NUMBER	MARKED FOR ID	
11	Franko Exhibit		
12	No. 1	advisement of rights	9
13	No. 2	notification of interview	9
14	No. 3	notification of allegations	10
15	No. 4	original case report	11
16	No. 5	receipt form	11
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1 MS. ANSARI: As a preliminary matter, I am
2 providing the following information: An
3 independent certified court reporter is present
4 today to provide a verbatim transcript of this
5 interview.

6 To aid in the accuracy of the transcript,
7 it is the custom and practice of court reporters to
8 audio record the interview. The recording is the
9 confidential work product property of the court
10 reporter and will not be provided to any party
11 including the Office of Inspector General.

12 If you request, the audio recording will
13 be discontinued. So, Sergeant Franko, are you okay
14 with the court reporter audio recording this
15 interview?

16 THE WITNESS: Yes.

17 MS. ANSARI: Let the record reflect that
18 today's date is August 2, 2016. The time is
19 9:11 a.m. We are located at Amicus Court
20 Reporters, 300 West Adams, Suite 800.

21 My name is Sarah Ansari. The court
22 reporter is Angela Ingham, and I would ask that the
23 other individuals present identify themselves and
24 spell their name for the record.

1 MR. VALDEZ: Investigator Raul Valdez, R-a-u-l,
2 V-a-l-d-e-z, Inspector General's Office.

3 MR. PLEINES: Thomas Pleines, P-l-e-i-n-e-s,
4 counsel for Sergeant Franko.

5 THE WITNESS: Sergeant Stephen Franko,
6 S-t-e-p-h-e-n, F-r-a-n-k-o.

7 MS. ANSARI: There are no other individuals
8 present.

9 We are here today pursuant to an
10 investigation being conducted under Chapter 2-56 of
11 the Municipal Code of the City of Chicago. We are
12 here for an interview of Sergeant Stephen Franko.

13 Sergeant Franko, would you please raise
14 your right hand and the court reporter will swear
15 you in.

16 (Witness duly sworn.)

17 STEPHEN FRANKO,
18 called as a witness herein, having been first duly
19 sworn, was examined and testified as follows:

20 EXAMINATION

21 BY MS. ANSART:

22 Q. So we are going to read the advisement of
23 rights again for our procedures.

24 Sergeant Franko. I'm now going to hand you

1 a form that is marked "Advisement of Rights." This
2 has already -- this will be filled in with my name
3 and Investigator Valdez's name. I'm going to ask
4 you to read along with me as I go through it, and
5 then I will ask you after each paragraph to
6 acknowledge the paragraph.

7 "I understand that this interview is part
8 of an official investigation and that I have a duty
9 to cooperate with the Office of Inspector General,
10 which includes answering all questions completely
11 and truthfully," do you understand?

12 A. Yes.

13 Q. "I understand that I have no right to
14 remain silent. I understand that I have an
15 obligation to answer questions put to me
16 truthfully. I understand that if I refuse to
17 answer questions put to me, I will be ordered by a
18 superior officer to answer the questions. I
19 further understand and I have been advised that if
20 I persist in my refusal to answer after an order to
21 do so, such further refusal constitutes a violation
22 of the rules and regulations of the Chicago Police
23 Department and may serve as the basis for my
24 discharge," do you understand?

1 A. Yes.

2 Q. "I understand and have been advised that
3 my statements or responses may constitute an
4 official police report. I understand that Rule 14
5 of the Chicago Police Department's rules and
6 regulations prohibits making a false report,
7 written or oral, and I further understand that
8 making such a false report, whether written or
9 oral, may result in my separation from the Chicago
10 Police Department," do you understand?

11 A. Yes.

12 Q. "I understand that any statement made by
13 me during this interview may be used as evidence of
14 misconduct or as the basis for disciplinary action
15 up to and including removal or discharge," do you
16 understand?

17 A. Yes.

18 Q. "I understand that any statement made by
19 me during this interview and the fruits thereof
20 cannot be used against me in a criminal
21 proceeding." do you understand?

22 A. Yes.

23 Q. "I understand that I have the right to
24 have a union representative, or legal counsel of my

1 choosing, present at the interview to consult with,
2 and that I will be given a reasonable time to
3 obtain a union representative or legal counsel as
4 long as the interview is not unduly delayed," do
5 you understand?

6 A. Yes.

7 Q. "I understand that a refusal to answer any
8 questions, or any false, inaccurate, or
9 deliberately incomplete statement by me would
10 constitute a violation of Chicago Municipal
11 Ordinance Chapter 2-56, and may serve as the basis
12 for my discharge," do you understand?

13 A. Yes.

14 Q. "I acknowledge that this statement of my
15 administrative rights have been read aloud to me,
16 and I have been allowed to review this document,"
17 do you understand?

18 A. Yes.

19 Q. I'll ask that you please sign the
20 advisement of rights, Sergeant Franko, and I will
21 witness this and Investigator Valdez will also
22 witness the document; and for the record, I'm going
23 to cross out the waiver below since you brought
24 legal representation, and we will mark this as

1 | Exhibit 1.

2 Counsel, do you have any statements you
3 would like to made for the record before we begin?

4 MR. PLEINES: I just want to state for the
5 record that Sergeant Franko and I are considering
6 this to be a continuation of the statement that he
7 previously gave in June. He understands that he's
8 still under a direct order to answer your
9 questions; and as the admonitions you just read
10 made clear, the statement is only under duress
11 because he's been given a direct order to answer
12 your questions.

13 BY MS. ANSARI:

14 Q. So before we begin, we're going to mark
15 the documents you were served with as exhibits to
16 get them on the record.

17 So I'm marking as Exhibit 2 a document
18 entitled "Notification of Interview" dated July 23,
19 2016. Have you seen this document, Sergeant
20 Franko?

21 A. Yes.

22 Q. Did BIA provide you with this document on
23 July 23, 2016?

24 A. Yes.

1 Q. Is your signature at the bottom of this
2 document?

3 A. Yes.

4 Q. Marking as Exhibit 3, "Notification of
5 Allegations," dated July 23, 2016, have you seen
6 this document?

7 A. Yes.

8 Q. Did BIA provide you this document on
9 July 23, 2016?

10 A. Yes.

11 Q. Is that your signature on the bottom of
12 the page?

13 A. Yes.

14 Q. Marking as Exhibit 4 a document entitled
15 "Receipt Form" dated July 23, 2016, have you seen
16 this document?

17 A. Yes.

18 Q. Did BIA provide you with this document on
19 July 23rd?

20 A. Yes.

21 Q. Is that your signature at the bottom of
22 the page?

23 A. No signature on this one. This is the
24 case report.

1 Q. Oops, sorry. So Exhibit 4 is an original
2 case report. It's not the receipt. You received
3 this document, correct?

4 A. Yes.

5 Q. Okay. So Exhibit 5 is the receipt form,
6 and that's dated July 23, 2016. Have you seen this
7 document?

8 A. Yes.

9 Q. And did BIA provide you with this document
10 on July 23rd?

11 A. Yes.

12 Q. Is that your signature at the bottom of
13 the page?

14 A. Yes.

15 Q. Okay. In addition to the materials we
16 provided you, did you review any other materials in
17 preparation for this interview?

18 A. No.

19 Q. Did you speak with anyone in preparation
20 for this interview besides your attorney?

21 A. No.

22 MS. ANSARI: Counsel, may we provide the
23 transcript of this interview within 72 hours of
24 receipt?

1 MR. PLEINES: Yes, that would be fine.

2 BY MS. ANSARI:

3 Q. And do you have any other prepared remarks
4 that you would like to make before we get into the
5 substance of the interview?

6 A. I again want to preface this statement by
7 saying that I am not giving this statement
8 voluntarily but only under duress. I have received
9 a direct order from Commander Klimas directing me
10 to answer your questions. I have been informed
11 both orally and in writing that if I disobey that
12 order I will be fired from my job.

I also want to renew my objection to the delay in this matter. This shooting took place almost 20 months ago. This delay is prejudice to my ability to recall all of the details of my actions and movements so that I can properly defend myself.

19 BY MS. ANSARI:

20 Q. Sergeant Franko, for the record, can you
21 please state your star number and your current unit
22 of assignment?

23 A. My name is Sergeant Stephen Franko,
24 F-r-a-n-k-o, Star No. 1537, assigned to the First

1 District.

2 Q. And on October 20, 2014, what was your
3 star number, and what district were you assigned
4 to?

5 A. My star number was 1381. I was assigned
6 to the Eighth District.

7 Q. Okay. Sergeant Franko, can you please
8 turn to Exhibit 4, the original case incident
9 report. So as background, what is an original case
10 incident report?

11 A. An original case report is the report
12 that's prepared to document any incident that
13 occurs on the street. It's prepared by the --
14 usually the first responding unit or the assigned
15 unit, and they document the preliminary facts as
16 gathered.

17 Q. Okay. Can you walk us through the process
18 for completing one of these reports, kind of how
19 does it get decided -- kind of starting with how
20 does it get decided who even is doing it through
21 the final signatures?

22 A. What usually occurs is OEMC assigns a car
23 to a job. When you're given the assignment, you
24 are the responsible paper car.

1 So from that point on when you arrive on
2 scene, you gather as much information as you can,
3 and then you prepare an original case report, which
4 includes obtaining an RD number, which at that
5 point that allows later on down the road a follow-
6 up investigation because every original case report
7 gets followed up by a detective division member.

8 Q. Okay. So is this the first document that
9 kind of creates the RD number?

10 A. Yes. This is the thing that starts it all
11 to allow everybody else to do a supplement to
12 that -- supplementary report to that original RD
13 number.

14 Q. So when you said, in terms of who
15 completes it, it's the paper car, whoever is kind
16 of responding to the incident?

17 A. Correct. It's the initial assigned car.
18
19 There are instances where it can be given to
20 another car. It just depends on the situation and
21 what's going on at that incident.

21 Q. Okay. And what is the review chain for
22 this kind of a report?

23 A. The original case report would in most
24 cases be approved by the sergeant that is assigned

1 to that car -- or that the car is assigned, too.

2 Q. So if a car under your supervision was
3 filling one out, then it would be you who is
4 signing it, correct?

5 A. Most likely, yes.

6 Q. And are you the -- or is it usually a
7 sergeant who is the one?

8 MR. PLEINES: Is it usually a sergeant what?

9 BY MS. ANSARI:

10 Q. When I asked who the ultimately approver
11 is, that's usually a sergeant, correct?

12 A. Correct.

13 Q. Okay. And is there anyone above a
14 sergeant who reviews the report?

15 A. It would be reviewed, but the ultimate
16 approval comes from the front-line supervisor,
17 which in this case is a sergeant.

18 Q. Okay, got it.

19 Does the detective assigned to a case
20 generally also look at this report before it's
21 finalized?

22 A. It would depend on --

23 MR. PLEINES: You were a detective, were you
24 not?

1 THE WITNESS: Yes.

2 MR. PLEINES: Answer on the basis of your own
3 experience.

4 THE WITNESS: Most cases, no.

5 BY MS. ANSARI:

6 Q. Okay. And then after it's finalized the
7 detective -- would the detective eventually end up
8 looking at it because it's in the file?

9 A. Yes.

10 Q. So for this specific report -- we'll get
11 away from the general questions -- I'll give you
12 time to take a look if you need to, but who
13 prepared this report?

14 A. The reporting officer on this case was
15 Officer Dora Fontaine.

16 Q. Now, why was she the reporting officer
17 considering in this situation, the October 20th
18 incident, she wasn't, I wouldn't consider, the kind
19 of initial assigned car? Can you explain kind of
20 how that happened?

21 A. Eventually after all the events unfolded,
22 there needed to be a case report prepared, so
23 somebody would have been assigned who was on scene.
24 I do not remember or recall exactly how 841 Robert,

1 which is the beat of Officer Fontaine -- I don't
2 know how they were given the actual assignment.

3 The way the job came out, it wasn't a job
4 given by OEMC. There was already a car that was
5 assigned to the incident which unfolded into what
6 it became.

7 So I don't know at that point who
8 reassigned it to 841 Robert or assigned it to them
9 to do the report. I don't recall, you know,
10 exactly how that was done.

11 Q. Okay. So you did not direct Officer
12 Fontaine to complete this report?

13 A. To the best of my knowledge, I don't
14 remember assigning her. It's been so long ago, and
15 there was a lot going on. I don't remember the
16 exact events that night.

17 Q. Okay. And you said you don't know who did
18 assign her, or you're not sure?

19 A. I'm not sure.

20 Q. Did you speak with Officer Fontaine at all
21 as she was preparing this report?

22 A. From looking at the -- at the time it was
23 submitted, I probably spoke to her early on about
24 some preliminary information; but as the night was

1 going on, I had nothing to do with the
2 investigation, so the next time I would have seen
3 it was when I was ordered to approve the case
4 report.

5 Q. Okay, got it.

6 Do you recall providing her any
7 information to actually include in this report?

8 A. I don't specifically recall anything. The
9 only thing I could have given her were some general
10 information, address, maybe time, things like that.

11 I had nothing to do with the actual
12 investigation, and I wouldn't have been able to
13 provide her with anything regarding, you know, that
14 part of it.

15 I don't even -- you know, in the area with
16 the support services and the other units, I really
17 had nothing to do with anybody, you know, recording
18 that on scene.

19 (Whereupon, a discussion was had
20 between Mr. Pleines and the
21 witness.)

22 THE WITNESS: And additionally, any information
23 that she would have gotten from me that night was
24 also available to anybody else who was part of the

1 investigation. It was general knowledge.

2 BY MS. ANSARI:

3 Q. Okay. Do you know who she might have
4 gotten a lot of the information that's in the
5 report from?

6 A. I don't know specifically. In my time as
7 a detective I do know that it's a collaboration of
8 everybody who was on scene coming together and
9 giving her information that was gathered; and it's
10 her job to, as best she can, summarize the
11 information in a preliminary format to move forward
12 with further investigation.

13 Q. Okay. And so as a general matter with a
14 police-involved shooting, would this be the kind of
15 report where the reporting officer would get a lot
16 of information from the detective, detective or
17 detectives?

18 A. Yes, detectives and other officers on
19 scene including other supervisors. It's just a
20 collaboration of everything.

21 Q. And so do you recall was it kind of a
22 situation where Officer Fontaine was walking around
23 and just gathering as much information as she
24 could? Do you recall that specifically and -- do

1 you recall that specifically?

2 A. I remember when she was in the area when
3 we were doing everything that she was, you know,
4 involved with a lot of different people,
5 specifically the detectives.

When the superior officers got to the scene and relieved me of basically my role in the matter, I was out of it and just there as a support role for anything they needed. So I didn't have anything to do with the investigation or the gathering of information or the reporting of any information.

13 Q. Okay. So on the last page, on Page 4, it
14 lists Detective March as detective investigator and
15 a date October 21. 2014. 1501?

16 MR. PLEINES: Spell the name, please.

17 MS. ANSARI: March, M-a-r-c-h.

18 MR. PLEINES: Okay. You don't mean Marsh?

19 MS. ANSARI: No, sorry, March.

20 BY MS. ANSARI:

21 Q. Does this mean that Detective March was
22 responsible for doing any kind of review or
23 approval of this report?

24 A. There wouldn't have been a review -- or

1 approval, I mean, because that would only be me.

2 I'm not sure what his name being here means.

3 I don't usually prepare any reports, and
4 the last time I actually did a report was paper.

5 I'm not familiar with the era of reporting system

6 as far as entering information or checking boxes.

7 That could be that he was notified or could be that

8 he had something else to do with it. I wouldn't

9 have, you know, knowledge about whether he did or
10 didn't.

11 Q. Okay. But you said that you were
12 responsible for approving this report, correct?

13 A. Correct.

14 Q. Did you review this report before you
15 approved it?

16 A. Yes.

17 Q. Do you recall at what time you first saw
18 it? I mean, I see here that the time of the -- it
19 looks like the approval was October 21 -- the date
20 is October 21, 2014, and the time is 5:18 a.m.
21 Would you have first seen the report around that
22 time?

23 A. Yes.

24 Q. Okay. And did you review this report

1 before it was finalized?

2 A. Yeah. It's time stamped in the system
3 when it would be submitted and then approved; so,
4 yeah, that would probably be around the time that I
5 first laid my eyes on it.

6 Q. Okay. Did you review the whole report
7 before you approved it?

8 A. I took a quick look at it. They wanted to
9 get the RD generated, so I was told to approve it.

10 Q. Okay. If you turn back to Page 1.

11 A. Yes.

12 Q. This report characterizes Van Dyke as
13 injured by offender under "Injuries" where the
14 offender is McDonald. Did you review and approve
15 that statement?

16 A. To be honest with you, I overlooked this.
17 When it was brought to my attention, that was the
18 first time that I saw that box in there.

19 Q. Okay.

20 A. Not being part of the investigation, if I
21 would have seen it, I don't even know if I would
22 have said anything because I don't know if he was
23 or was not injured, and there was nothing at that
24 point for me to question anything to whether or not

1 he was.

2 Q. You said you didn't know whether or not
3 Van Dyke was injured that night?

4 A. I did not know. I had a very brief
5 conversation with him when it first occurred; and
6 after that, I really had nothing to do with the
7 investigation. So, you know, if he had turned his
8 ankle, anything else would have happened that would
9 have caused injury to him I was not aware of that
10 night.

11 Q. Okay. But you did talk to him that night
12 at the scene, correct?

13 A. Yes, briefly.

14 Q. And he didn't indicate that he had been
15 injured --

16 A. No.

17 Q. -- correct? Okay.

18 Did anyone else indicate to you that he
19 might have been injured?

20 A. No.

21 Q. Did you direct Officer Fontaine to include
22 "injured by offender" in the report?

23 A. No.

24 Q. Do you have any idea why she included that

1 language in the report?

2 A. I do not.

3 Q. So it looks like from this report -- but
4 I'm not familiar with this system -- that this is
5 something you can type in. Is that the case?

6 A. I would assume, but I can't say that with
7 certainty if it was a box that says, "Injured by
8 offender" or injured on -- I'm not sure. Like I
9 said, I don't -- I've never prepared one of these
10 in this format so -- and if I did see it, I don't
11 recall if it's a box you can check or whether you
12 have to specifically type that information into the
13 box.

14 Q. Okay. So the time stamp on this of your
15 approving time is 5:18 a.m. Had you seen the video
16 of the shooting by 5:18 am?

17 A. Not in its entirety.

18 Q. When you say "not in its entirety," did
19 you see the portion where McDonald was actually
20 shot?

21 A. Yes.

22 Q. Okay. And did you see the portion of the
23 video where McDonald was walking south on Pulaski?

24 A. At some point, yeah, partially when he was

1 walking and then when the shooting occurred.

2 Q. Okay. And you said your conversation with
3 Van Dyke at the scene was brief, correct?

4 A. Correct.

5 Q. Okay. Do you stand by the accuracy of
6 that statement, that Van Dyke was injured by
7 McDonald?

8 A. I can't stand by it because I wasn't part
9 of the investigation.

10 Q. If -- so this is a general thing. If
11 there's an original case incident report and as
12 you're approving it you believe there's information
13 in it that's incorrect, what are the steps to take
14 to correct that information?

15 A. Generally if I think that there's
16 information in there that needs to be corrected, I
17 would reject the report, along with some comments;
18 and generally the officer, if they had any more
19 questions, would ask me. But the comments I
20 usually would provide in there would be enough for
21 them to understand what they need to correct, but
22 it's not unusual to actually have a conversation
23 also.

24 Q. And if there's anything after the fact --

1 say you approve a report and you realize later that
2 there's information in it that's incorrect. Is
3 there a mechanism to correct the report after it's
4 been approved?

5 A. There's no way to walk the actual report
6 back after it's been approved. There's a short
7 time frame where I think you can -- the approving
8 sergeant can pull it back, but then it eventually
9 goes into the system to be -- which is the CHRIS
10 system then to be printed out.

11 Q. And you said you weren't made aware of
12 this "injured by offender" language until we served
13 you with the documentation --

14 A. Correct.

15 Q. -- on July 23rd?

16 A. That's the first time I noticed it, yes.

17 MS. ANSARI: Do you have any follow-up
18 questions on this report?

19 MR. VALDEZ: No.

20 BY MS. ANSARI:

21 Q. Okay. So we are going to move on to some
22 follow-up questions from your past interview. Do
23 you guys want to take a break or anything?

24 MR. PLEINES: Are you good?

1 THE WITNESS: I'm good, yeah.

2 | BY MS. ANSARI:

3 Q. Okay. So this may kind of jump around; so
4 if you need more context, please let me know.

5 In your last interview you said that

6 McDonald was still on the scene when you arrived,
7 correct?

8 A. Correct.

9 Q. Was he still breathing, or had he already
10 passed away?

11 A. No, he was still breathing.

12 Q. He was still breathing?

13 A. Yes.

14 Q. And you ensured that an ambulance was
15 called to the scene?

16 A. Correct.

17 Q. So I'm going to enter into evidence two
18 exhibits that were provided to you at your last
19 interview, and they're kind of examples.

20 We can add into evidence the Van Dyke
21 tactical response report as Exhibit 6 and Van Dyke
22 officer's battery report as Exhibit 7.

So if you'll turn to the Van Dyke
officer's battery report, Exhibit 7.

1 A. Okay.

2 Q. Where it says, "Number of officers
3 battered, 3," in your first interview you explained
4 that in this kind of a situation where it says,
5 "Number of officers battered" that you have to put
6 something in because it doesn't say assaulted or
7 battered but at a later time the officer is
8 supposed to explain that he means assaulted? I'm
9 putting words in your mouth, so I just want to get
10 a better explanation of kind of what that...

11 MR. PLEINES: Can we go off the record for a
12 moment?

13 MS. ANSARI: Sure.

14 (Discussion had off the record.)

15 BY MS. ANSARI:

Q. Back on the record, it's 9:39 a.m.

17 So, Sergeant Franko, as we were saying, in
18 your last interview you explained that after the
19 fact officers -- there might be a situation where
20 you have to clarify something in the TRR form
21 related to the number of officers battered and it
22 should really be assaulted. Can you clarify how
23 that works, if really it's an assault and not a
24 battery what should be done to clarify that?

1 A. I don't have the actual knowledge of what
2 happened in this instance.

3 Q. Yes, in general.

4 A. But in general, this report would be
5 filled out in any case where there was a murder,
6 aggravated battery, battery, aggravated assault, or
7 assault while in the performance of a police
8 officer's duties. That's the only time this
9 additional report, the officer's battery report,
10 would be filled out in conjunction with the
11 tactical response report.

12 There is no place that I know of on here
13 where they could say that they were assaulted
14 versus battered. It says specifically battered.

15 And I know in other cases when there has
16 been -- officers were assaulted, we would put the
17 same number in there even though they weren't
18 battered so that you could follow up on it at a
19 later point to let them know that there were --
20 that the reason why we're doing this report -- if
21 we put zero, then why are we doing this report?

So there probably should be an additional box on the form that said battered -- assaulted or battered, assaulted. But if we put zero, then

1 there would be no reason to do an officer's
2 battered report. So it's sort of a way to verify
3 that we are doing this because we have officers who
4 were battered/assaulted.

5 Q. And so when after the fact is it
6 clarified; and is there an actual, like, written
7 form or some kind of procedure?

8 A. I don't know. Everything on this report
9 says battered, battered, if you look at it. So
10 even though the instructions say we can use this
11 when there's assault, it also -- I think it was
12 just an omission when they did the report to not
13 include that in.

14 But this is always used when there's just
15 an assault also, so it gets confusing because now,
16 if we do "Type of Assignment When Battery
17 Occurred," well, there wasn't a battery, it was an
18 assault. Does that mean we don't fill these out?
19 But this is important information pertinent to the
20 report.

21 So we go with the assumption that if the
22 report is needed then we would go with, you know,
23 assault or battery. It doesn't matter. If it
24 needs this report, we fill the boxes in accordingly

1 to the instructions.

2 Q. Okay.

3 A. And, again, that's just a general answer
4 based on my experience.

5 Q. Yes, a general --

6 A. Not specific to this case.

7 Q. Yes, I am asking generally.

8 (Whereupon, a discussion was had
9 between Mr. Pleines and the
10 witness.)

11 BY MS. ANSARI:

12 Q. So I'm now going to show you a portion of
13 the video that was recovered from the in-car video
14 system of B813R. This is one of the videos that we
15 provided to you in preparation for your first
16 interview.

17 Raul is going to open the VLC media file
18 titled "Video_TS.IFO" on his laptop. The file
19 contains six minutes and five seconds of footage.
20 The video has also a time stamp on it indicating
21 the date and time the video was recorded. We're
22 going to advance the video to the portion time
23 stamped 9:57:22. The VLC media player time bar
24 will be at...

1 MR. VALDEZ: We'll find out where it's going to
2 be right now. You said 9:57:22 is where you want
3 it? We'll start at 9:57 if that's okay.

4 MS. ANSARI: Yes, that's fine.

5 BY MS. ANSARI:

6 Q. So the time stamp on the VLC media is at
7 412. So we're going to watch this all the way
8 through once from here to after the shooting, and
9 then we'll go back and ask you a couple of
10 questions.

11 A. Sure.

12 Q. Okay. We can stop here, and we're
13 stopping at 451.

14 So, Sergeant Franko, I would like to turn
15 back to the tactical response report, Exhibit 6.
16 So in the tactical response report under "Assailant
17 Battery," "Attack With Weapon" is checked. I want
18 to go back through the video and ask in your
19 opinion where you think the attack with weapon
20 happened, and just tell us to stop, and we'll kind
21 of try and clear that up for the record.

22 MR. PLEINES: We're going to need to take a
23 break.

24 MS. ANSARI: Take one now? Sure. It is 9:45.

1 (Short recess was taken.)

2 MS. ANSARI: We can go back on the record. It
3 is 9:49 a.m. Angela, can you read back the last
4 question?

5 (Record read as requested.)

6 MR. PLEINES: Are you ready?

7 MS. ANSARI: Yes.

8 THE WITNESS: I just want to preface before we
9 get into this are you asking my opinion from what I
10 thought that night or my opinion from what I think
11 now after I've reviewed all the video and have seen
12 the footage in its entirety?

13 BY MS. ANSARI:

14 Q. Both. So we can do that in two parts.

15 A. Okay.

16 MR. PLEINES: As much as that is possible.

17 THE WITNESS: Right.

18 MS. ANSARI: Right.

19 MR. VALDEZ: Let me know when you want me to
20 pause.

21 MR. PLEINES: Can you slow it down?

22 MR. VALDEZ: Yes, I can.

23 MS. ANSARI: We can play it in half time.

24 MR. PLEINES: And if there's a spot in this

1 slowed version, that's fine. If not, we'll go back
2 to normal speed.

3 THE WITNESS: Okay. Maybe I can clear things
4 up a little bit, too, with the two different
5 opinions is the night of I had very limited
6 information because I wasn't part of the
7 investigation.

8 The video I did see was just from bits and
9 pieces walking around in the office. I didn't see
10 enough of it to have a strong opinion one way or
11 another, and I relied on the investigators that
12 night to make their determination.

13 MS. ANSARI: Okay.

14 MR. PLEINES: Since that time?

15 THE WITNESS: Since that time when I've had a
16 chance to review it, I do have an opinion on it.

17 BY MS. ANSARI:

18 Q. Okay. So I'll go through each of my
19 questions relating to the report --

20 A. Okay.

21 Q. -- and if the answer is the same regarding
22 what your opinion was that night, just let me know,
23 and then we'll go through what your opinion is.

24 So now we're playing it on half speed.

1 A. Right. Now at this time I do want to also
2 clarify that he is an assailant at this point based
3 on his activities with 815 Robert's vehicle, attack
4 with the knife, and he's got the knife in his hand
5 right now, in his right hand.

9 THE WITNESS: Yeah, that's the term that we use
10 in the use of force model is assailant.

11 BY MS. ANSARI:

12 Q. Okay.

13 A. Now the part that I was -- I guess ask a
14 question first and then I'll...

15 Q. In your opinion at the time where was the
16 attack with weapon on the video?

17 A. The night of, I was provided with the same
18 information everyone else was that Lequan McDonald
19 was attacking, attempting to stab the officers with
20 the knife.

21 So based on everything that was given to
22 me and that was provided to me through the
23 investigators, that was my impression was that he
24 had a knife, he was attacking -- or approaching the

1 officers in a threatening way, which would still be
2 an attack, and Officer Van Dyke fired until, you
3 know, the threat was no more.

4 Q. Okay. So from that night, your
5 understanding was that Officers Walsh and Van Dyke
6 were also attacked with a weapon, not just Officer
7 Gaffney?

8 A. Correct. The attack would be coming at
9 somebody with a knife. You're a victim of an
10 aggravated assault.

11 Q. Okay. And so that opinion was formed from
12 talking to people at the scene, not from the video?

13 A. I didn't see the video in its official
14 capacity. So to make my decision based on bits and
15 pieces that I did see wouldn't have been fair. It
16 was about everything that was given to me and that
17 I learned through being there that night that I
18 believed it was an assailant with a knife coming at
19 the officers and the officers fired -- or Officer
20 Van Dyke fired his weapon.

21 Q. Okay. So now your opinion, what is your
22 opinion where the attack with the weapon is, now
23 having the benefit of seeing the video in its
24 entirety?

1 MR. PLEINES: Describe it.

2 BY MS. ANSARI:

3 Q. And we can go back now --

4 A. This comes -- this brings our training
5 into account. We were trained when I went through
6 the academy that anytime there is an assailant who
7 has a knife -- and it was proven in the training
8 classes -- that you do not have time within 7 paces
9 or 21 feet to pull your weapon out and eliminate
10 the attack with your gun if you still had it
11 holstered.

12 So when somebody with a knife is within
13 21 feet of you, you better have your weapon out and
14 ready to go because he could kill you with that
15 knife or your partner or anybody else within that
16 distance.

17 So in perspective with the lane markers,
18 the lines, the width of what -- you know, eight to
19 ten feet, I don't know how wide officially it was
20 there, he could be two paces, maybe less, away from
21 being on top of Van Dyke or his partner.

22 Q. Okay. And that's --

23 A. You'll see. And then there's going to be
24 a moment where he takes his left foot, and he kind

1 of stutter steps towards Van Dyke and Walsh.

2 Q. Okay. Let me know where you kind of see
3 that.

4 MR. VALDEZ: Just for the record, the VLC media
5 player is at 4 minutes and 35 seconds, and we're
6 going to replay the video.

7 THE WITNESS: No, it's after he takes the knife
8 out and he puts it like right there. It's coming
9 up. Now, right now it appears that he's walking
10 away from the car; but if you play it, now as he's
11 coming close to them, he's still -- at some point
12 he's going to be less than ten feet away. Watch
13 his left foot.

14 Okay. As he's walking there, the distance
15 between Van Dyke and the officers, from what I
16 could tell, is probably six feet or less, even
17 though he's walking sideways.

18 No, it would have been before that. The
19 way he's bouncing with his stride, he's got a knife
20 in his hand, it would have only taken a brief
21 moment for him. Yeah, keep going.

22 MS. ANSARI: Now we're at kind of 442, 443.

23 MR. VALDEZ: And I can go frame by frame.

24 THE WITNESS: Yeah, let's go frame by frame.

1 Now you can see the distance here. It's one lane
2 line, one lane.

3 MR. PLEINES: One lane of traffic?

4 THE WITNESS: Right, one lane of traffic. He's
5 got a knife in his right hand, and you have
6 Van Dyke with his weapon, looks like it's extended
7 out. It's hard to see with the light, but he's got
8 his weapon in his hand. Now his foot is still left
9 to the line.

10 MR. VALDEZ: So we're at 444 on the VLC media
11 player and I'm just going to --

12 THE WITNESS: Yeah, could you just play it in
13 real time?

14 MR. VALDEZ: Sure.

15 THE WITNESS: I didn't have the benefit of this
16 slowed-down version when I was watching it, so my
17 perspective wouldn't be the same.

18 The way he's walking where he's bouncing
19 up and down, not our normal gait. It's the
20 bouncing up and down as he's walking. At that
21 point is he going to bounce left, is he going to
22 bounce right?

23 He's extremely close. Yeah, he's got the
24 weapon out. He's an assailant. He's close enough

1 where if he takes two steps to the left he could be
2 on Van Dyke before Van Dyke even has a chance to do
3 anything about it.

4 BY MS. ANSARI:

5 Q. Okay.

6 A. It's absolutely my opinion that he was an
7 assailant and he was a threat to both officers, and
8 the way he was acting erratically and bouncing that
9 he easily could have went towards him, and at that
10 point one or two officers could possibly have been
11 stabbed.

12 Q. Okay. You mentioned something about --
13 it's called a 21-foot rule, correct?

14 A. Yes. That's how it was when I was
15 trained, when I went through the academy.

16 Q. So you were trained in that in --

17 A. Yes. We actually had scenarios --

18 MR. PLEINES: Let her finish.

19 THE WITNESS: Sure.

20 BY MS. ANSARI:

21 Q. So at the academy you were trained on the
22 21-foot rule, correct?

23 A. Correct.

24 Q. And can you -- I know you repeated it

1 before, but for the record more clearly explain
2 what that rule is?

3 A. We were basically taught that if there was
4 an armed offender within 21 feet of us and we did
5 not have our weapon out that there was no way that
6 you could pull that weapon out, aim it, and fire it
7 in time to stop that offender from attacking us
8 with the knife.

9 Q. Do you know if that's still taught in the
10 academy?

11 A. I don't know what the exact -- I had
12 informal conversations about this with some other
13 officers, and it was even mentioned to me that it's
14 been moved back to 25 feet. I don't know if that's
15 true or not; but in our conversations about this
16 after the fact, it's still being taught. I just
17 don't know what the distance is; and, like I said,
18 it might have been moved back further.

19 Q. When did you have conversation -- you said
20 you had conversations with other officers about
21 that. When was that?

22 A. Just officers in general, like, in -- you
23 know, nothing to do with the investigation or the
24 officers, just people that we talk to, like, at

1 work or when it would be on TV and we would see it,
2 just those kinds of conversations.

3 Q. So not in relation to kind of what was
4 being investigated?

5 A. No.

6 Q. And not that night?

7 A. No.

8 Q. So just kind of after when this all came
9 out in the media discussing that?

10 A. Correct.

11 MS. ANSARI: Okay. Do you have any follow-up
12 on that?

13 MR. VALDEZ: Yes.

14 EXAMINATION

15 BY MR. VALDEZ:

16 Q. Just in relation to the 21-foot rule, that
17 evening do you recall any discussions of the 21-
18 foot rule?

19 A. I didn't have anything to do with the
20 investigation. I have no idea if it was brought
21 up. Not anything that had to do with me.

22 Q. How about anything that you overheard
23 possibly maybe at area central, anything along
24 those lines?

1 A. Nothing official, no. It was just talk of
2 he was real close to him and he had the knife.

3 Q. Right. And I understand nothing official,
4 and that's kind of what I'm getting at. Like maybe
5 in passing or something that you overheard?

6 A. No. It was just that he was very close to
7 them and he had a knife.

8 Q. And was any of that conversation in
9 relation to the 21-foot rule specifically or just
10 distance in general?

11 A. I believe it was just distance in general,
12 that -- you know, how close he was to the officer's
13 proximity.

14 | O. Okay.

15 FURTHER EXAMINATION

16 BY MS. ANSARI:

17 Q. Was Van Dyke part of any of those
18 conversations when people were talking about it
19 that night?

20 A. No.

21 Q. Because he was kind of separated from
22 everyone is my understanding?

23 A. Correct.

24 Q. So do you have any questions for us or

1 anything to add based on what we've asked today or
2 in your previous interview?

3 EXAMINATION

4 BY MR. PLEINES:

5 Q. I want to ask you a question to try to
6 clarify.

7 The responsibilities of the paper car
8 versus the sergeant when responding to an incident,
9 if an assignment comes out over the police radio
10 system of, let's say, a burglary, who is that job
11 going to be given to?

12 A. It's going to be given to the car who was
13 assigned the job in their sector.

14 Q. Right.

15 A. Or their beat depending on which car is
16 available but they generally have beat integrity,
17 so it's going to be somebody who is assigned to
18 that area.

19 Q. And a sergeant may or may not also be sent
20 on that call, correct?

21 A. Correct.

22 Q. Do sergeants do preliminary
23 investigations?

24 A. No.

Q. Whose responsibility is it to do a preliminary investigation?

3 A. The beat officer assigned to the job.

4 Q. And they're also the ones who you referred
5 to as the paper car?

6 A. Correct.

7 Q. So they write out the original case
8 report?

9 A. Yes.

10 Q. And your role as the sergeant in
11 relationship to that case report is just to approve
12 it?

13 A. Correct.

14 Q. And what does your approval mean or
15 constitute?

16 A. My approval means that all the information
17 that is on there -- making sure that the pertinent
18 boxes are filled. The information that's provided,
19 by not being on scene, I am taking the word of the
20 officers that were there that it's true and
21 accurate; and after I review the entire document, I
22 will give it my approval.

23 Q. So in your mind and based upon your
24 training and experience, when you approve a report,

1 are you verifying its accuracy?

2 A. There's no way I can verify with 100
3 percent that it's accurate.

4 Q. That's all I wanted.

5 MS. ANSARI: Okay. This concludes our
6 interview. It is 10:03 a.m.

7 END OF STATEMENT

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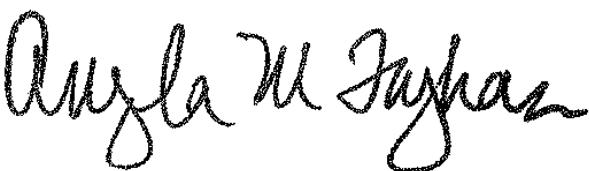
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1 STATE OF ILLINOIS)
2) SS:
2 COUNTY OF COOK)

3 I, ANGELA M. INGHAM, a Notary Public
4 within and for the County of Cook, State of
5 Illinois, and a Certified Shorthand Reporter of
6 said state, do hereby certify that I reported in
7 shorthand the proceedings had at the taking of said
8 statement and that the foregoing is a true,
9 complete, and correct transcript of my shorthand
10 notes as taken as aforesaid, and contains all the
11 proceedings given at said statement.

12 In witness whereof, I have hereunto set my
13 hand and affixed my notarial seal this day of
14 , 2016.

15
16 
17
18

Notary Public, Cook County, Illinois
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CITY OF CHICAGO
OFFICE OF INSPECTOR GENERAL

ADVISEMENT OF RIGHTS

I, Stephen Franko, understand that I am being interviewed by Sarah Ansari and Raul Valdez from the City of Chicago Office of Inspector General.

DATE 8/2/16 TIME 9:11am LOCATION 300 West Adams Street, Ste. 800 Chicago, IL

I understand that this interview is part of an official investigation and that I have a duty to cooperate with the Office of Inspector General, which includes answering all questions completely and truthfully.

I understand that I have no right to remain silent. I understand that I have an obligation to answer questions put to me truthfully. I understand that if I refuse to answer questions put to me, I will be ordered by a superior officer to answer the questions. I further understand and I have been advised that if I persist in my refusal to answer after an order to do so, such further refusal constitutes a violation of the Rules and Regulations of the Chicago Police Department and may serve as the basis for my discharge.

I understand and have been advised that my statements or responses may constitute an official police report. I understand that Rule 14 of the Chicago Police Department's Rules and Regulations prohibits making a false report, written or oral, and I further understand that making such a false report, whether written or oral, may result in my separation from the Chicago Police Department.

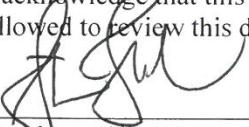
I understand that any statement made by me during this interview may be used as evidence of misconduct or as the basis for disciplinary action up to and including removal or discharge.

I understand that any statement made by me during this interview and the fruits thereof cannot be used against me in a criminal proceeding.

I understand that I have the right to have a union representative, or legal counsel of my choosing, present at the interview to consult with, and that I will be given a reasonable time to obtain a union representative or legal counsel as long as the interview is not unduly delayed.

I understand that a refusal to answer any question, or any false, inaccurate, or deliberately incomplete statement by me would constitute a violation of Chicago Municipal Ordinance 2-56, and may serve as the basis for my discharge.

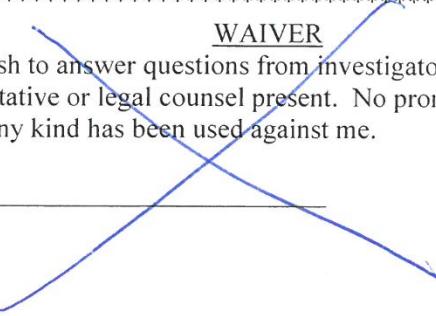
I acknowledge that this statement of my administrative rights has been read aloud to me, and I have been allowed to review this document.

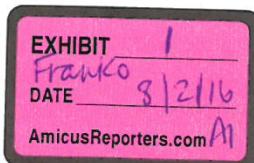

Employee Signature

Witness: Sarah Ansari Witness: Raul Valdez

WAIVER

Understanding these rights, I wish to answer questions from investigators from the Office of Inspector General without having a union representative or legal counsel present. No promises or threats have been made to me and no pressure or coercion of any kind has been used against me.

Employee Signature: 



NOTIFICATION OF INTERVIEW TO CPD MEMBER CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL			DATE July 19, 2016
NAME	RANK	STAR NO.	UNIT OF ASSIGNMENT
Stephen Franko	Sergeant	1537	1st District

YOUR APPEARANCE IS REQUIRED

AT <input checked="" type="checkbox"/>	Amicus Court Reporters 300 West Adams, Ste 800 Chicago, IL 60606	DATE ON July 27, 2016	TIME 2:00 PM
AS <input checked="" type="checkbox"/>	ACCUSED	<input type="checkbox"/> WITNESS	<input type="checkbox"/> COMPLAINANT
FOR <input checked="" type="checkbox"/>	A STATEMENT		
CONCERNING Misconduct and incompetence related to the October 20, 2014 shooting of Laquan McDonald.			

YOU ARE TO REPORT TO:

LEAD INVESTIGATOR	TITLE	PHONE NO.	EMAIL
Sarah Ansari	Assistant Inspector General	773-478-5227	sansari@chicagoinspectorgeneral.org

NOTE: You MUST notify the Lead Investigator of your inability to keep this scheduled appointment.

ALSO PRESENT AT THE INTERVIEW WILL BE:

NAME	TITLE	NAME	TITLE
Matthew Jacob	Investigator II	N/A	N/A

THE INTERVIEW WILL BE AUDIO RECORDED TRANSCRIBED BY A LIVE REPORTER

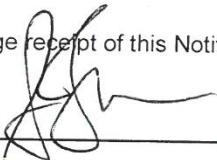
TO BE COMPLETED BY INTERVIEWEE (if applicable)

ACKNOWLEDGEMENT

Please contact AIG Ansari at (773) 478-5227 to confirm receipt of Notification of Interview and to confirm your attendance at the interview.

I hereby acknowledge receipt of this Notification of Interview.

SIGNATURE



PRINTED NAME

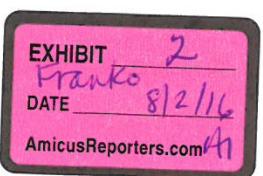
STEPHEN FRANKO

DATE

23 JUL 16

TIME

1006



TO BE COMPLETED BY OFFICE OF INSPECTOR GENERAL OR CPD COMPONENT PROVIDING NOTIFICATION TO INTERVIEWEE

NOTIFICATION MADE TO:

STEPHEN FRANKO

TITLE, RANK, & UNIT

DATE

TIME

SERGEANT DIST 001 23JUL16

1006

NOTIFICATION MADE BY:

LEVESTER DENHAM

TITLE, RANK, & UNIT

DATE

TIME

C/O. LT UNIT 121 23JUL16

1006

NOTIFICATION OF ALLEGATIONS

CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL

NAME OF ACCUSED	RANK	STAR NO.	UNIT OF ASSIGNMENT
Stephen Franko	Sergeant	1537	1st District

City ordinance, and if applicable, collective bargaining agreements, provide that you are entitled to notice of the nature of the allegations against you and the identity of all complainants prior to any interview. Accordingly, you are advised as follows:

COMPLAINANT(S)

1. John J. Escalante, Interim Superintendent of Chicago Police Department, sent a letter to the City of Chicago Office of Inspector General (OIG) dated January 13, 2016, requesting that OIG conduct an administrative investigation of the following allegations arising out of the October 20, 2014 shooting death of Laquan McDonald (the McDonald Shooting): "whether any officer(s) made false statements on official reports submitted in connection with the shooting of Laquan McDonald on October 20, 2014; whether any officer(s) obstructed or interfered with the investigation of this incident, either individually or in collusion with others; and whether any officer(s) committed any violation of Chicago Police Department rules, policies, or orders in connection with their response and/or handling of this matter." Escalante attached to the letter a copy of Sergeant S. Soria's (Star # 2275) Initiation Report, which raises similar allegations of misconduct with respect to Department members in connection with the McDonald Shooting, and identified that Report as a basis for OIG's administrative investigation.

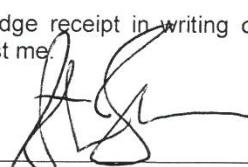
ALLEGATION(S)

1. On October 21, 2014, you reviewed and approved the Original Case Incident Report Officer Dora Fontaine completed concerning the McDonald shooting, which includes an Event Number of 1429315878 and an R.D. Number of HX475653 (the OCI Report), and which falsely stated that Officer Jason Van Dyke was "Injured by offender."
2. On or about October 20, 2014 or October 21, 2014, you directed that Officer Fontaine complete a false OCI Report concerning the McDonald shooting.
3. On or about October 20, 2014 or October 21, 2014, you assisted Officer Fontaine in the drafting of a false OCI Report concerning the McDonald shooting.
4. You were incompetent in the performance of your duties in the ways enumerated in allegations 1 through 3.

ACKNOWLEDGEMENT

I hereby acknowledge receipt in writing of the identity of the complainant(s) and notice of the nature of the allegation(s) against me.

Signature



Printed Name

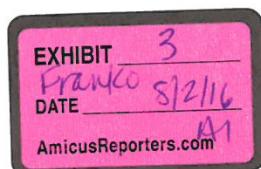
STEPHEN FRANKO

Date

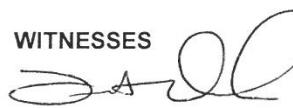
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Time

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WITNESSES

 *[Signature]* *HR 375*

CHICAGO POLICE DEPARTMENT
ORIGINAL CASE INCIDENT REPORT

3510 S. Michigan Avenue, Chicago, Illinois 60653
(For use by Chicago Police Department Personnel Only)
CPD-11-388(6-05)-C

ASSIGNED TO FIELD

IUCR: 0552 - Assault - Aggravated Po:Knife/Cut Instr		RD #: HX475653
Occurrence	4000 S Karlov Ave	Beat: 0815
Location:	Chicago IL 304 - Street	Unit Assigned: 0841R
Occurrence Date: 20 October 2014 21:56		RO Arrival Date: 20 October 2014 21:57
		# Offenders: 1

INCIDENT

VICTIM - Individual		Demographics
Name: PO. GAFFNEY #19958, Thomas		Male Age: 41 Years
Res:	3420 W 63rd St Chicago IL	Beat: 0823
		Beat: 5100
Sobriety: Sober		
VICTIM - Individual		Demographics
Name: PO. VAN DYKE #12865, Jason		Age: 36 Years
Res:	3420 W 63rd St Chicago IL	Beat: 0823
		Beat: 5100
Sobriety: Sober		
VICTIM - Individual		Demographics
Name: PO. WALSH #12865, Joseph		Age: 45 Years
Res:	3420 W 63rd St Chicago IL	Beat: 0823
		Beat: 5100
Sobriety: Sober		

INJURIES		Injury Info (PO. VAN DYKE #12865, Jason - Victim)
Injured by offender		

EXHIBIT 4
Franko 8/2/16
DATE
AmicusReporters.com A1

SUSPECTS		Suspect # 1	In Custody
Name: MCDONALD, Lequan J		Demographics	
Res:	[REDACTED]	Beat: 0314	Male DOB: 25 September 1997
			Black Age: 17 years
			6'01, Birth Place: IL
			185 lbs Suspected of Using: Weapon
			Brown Eyes
			Brown Hair
			Dreadlocks Hair Style
			Dark Complexion

RD #: HX475653

Chicago Police Department - Incident Report

RD #: HX475653

SUSPECT	Injury Info			
	CFD First Aid Given?	Yes	Injury Extent:	Fatal
	Responding Unit:	Ambulance 21	Hospital:	Mt. Sinai
	Type		Physician:	Dr. Pitzel
Gun Shot Wound			Weapon Used	Handgun

RELATIONSHIP	RELATIONSHIP			
	(Victim) PO. GAFFNEY #19958, Thomas	is a	No Relationship of	(Offender) MCDONALD, Lequan,J
	(Victim) PO. VAN DYKE #12865, Jason	is a	No Relationship of	(Offender) MCDONALD, Lequan,J
	(Victim) PO. WALSH #12865, Joseph	is a	No Relationship of	(Offender) MCDONALD, Lequan,J

DOMESTIC INFO	Vehicle #1				
	Vehicle: Chevrolet - Tahoe - Truck	Damaged?	Yes	Owner:	City Of Chicago
	Style: Hardtop, 4-Door	Damaged Descr:	Tire(S)-Flat, Front Windshield Scratched	Possessor/User:	PO. GAFFNEY #19958, THOMAS
	Color-Top/Bottom: White/White	Theft From?	No	Towed?	No
License Plate #:	Mp6581 - Illinois - Law Enforcement (City, County, State, Sos)	Burned?	No		
Expires:	01-December-2014	Destroyed?	No		
		Recovered?	No		
		Stolen?	No		
Vehicle Identifiers: Police Squad Car					

Chicago Police Department - Incident Report

RD #: HX475653

NOTIFICATIONS	Request Type	Unit	Agency Name	Date	Star #	Name
	Notification	177	Forensic Services Division	20 October 2014 23:07	13131	,SARLO
	Request Type			Date	Star #	Name
	Notification			20 October 2014 23:14	4898	,JINES
	Request Type	Unit	Agency Name	Date	Star #	Name
	On Scene	610	Detective Area - Central	20 October 2014 21:50	20563	,MARCH
	Request Type	Unit	Agency Name	Date	Star #	Name
	Notification	116	Deployment Operations Center	21 October 2014 22:58	7303	,CHIBE
	Request Type			Date	Empl #	Name
Notification				20 October 2014 23:50	76	,BRIGGS

Chicago Police Department - Incident Report

RD #: HX475653

NARRATIVE

PERSONNEL

EVENT# 15878 REFER TO DETECTIVE DIVISION SUPPLEMENTARY REPORT.
NOTIFICATION: WATCH COMMANDER OF UNIT LT. KOCH Beat#: Star#: 715 Emp#: Date: 20-OCT-2014 Time: 2250 NOT
NOTIFICATION: STATION SUPERVISOR COMISKEY Beat#: Star#: 1774 Emp#: Date: 21-OCT-2014 Time: 2250 NOT
NOTIFICATION: SERGEANT STEPHEN FRANKO Beat#: 0810R Star#: 1381 Emp#: Date: 21-OCT-2014 Time: 2158 ONS
ASSISTING OFFICER - STAR#: 10590 NAME: RICARDO VIRAMONTES BEAT: 0841R
REPORTING OFFICER - STAR#: 19958 NAME: THOMAS GAFFNEY BEAT: 0815R
REPORTING OFFICER - STAR#: 18715 NAME: JOSEPH MCCELLIGOTT BEAT: 0815R
ASSISTING OFFICER - STAR#: 12865 NAME: JOSEPH WALSH BEAT: 0845R
ASSISTING OFFICER - STAR#: 9465 NAME: JASON VAN DYKE BEAT: 0845R
ASSISTING OFFICER - STAR#: 4364 NAME: JANET MONDRAGON BEAT: 0813R
ASSISTING OFFICER - STAR#: 2763 NAME: DAPHNE SEBASTIAN BEAT: 0813R
ASSISTING OFFICER - STAR#: 6442 NAME: TERENCE BRADY BEAT: 0811R
ASSISTING OFFICER - STAR#: 7025 NAME: MICHAEL BELMONTEZ BEAT: 0811R
ASSISTING OFFICER - STAR#: 10385 NAME: LETICIA VELEZ BEAT: 0822
ASSISTING OFFICER - STAR#: 15790 NAME: ARTURO BECERRA BEAT: 0822
ASSISTING OFFICER - STAR#: 9654 NAME: RAUL ROSALES JR BEAT: 0821R
ASSISTING OFFICER - STAR#: 8302 NAME: PATRICK KENNING BEAT: 0821R
SUPERVISOR ON SCENE - STAR#: 1320 NAME: BRYAN SPREYNE BEAT: 0865
SUPERVISOR ON SCENE - STAR#: 1381 NAME: STEPHEN FRANKO BEAT: 0810R
ASSISTING OFFICER - STAR#: 12392 NAME: DAVID IVANKOVICH BEAT: 0823R
ASSISTING OFFICER - STAR#: 19898 NAME: JOSE TORRES BEAT: 0823R
ASSISTING OFFICER - STAR#: 11830 NAME: ANTHONY VANCE BEAT: 0833R
ASSISTING OFFICER - STAR#: 16422 NAME: JAMES GEISBUSH BEAT: 0833R
ASSISTING OFFICER - STAR#: 6490 NAME: LUIS GARCIA BEAT: 0851R
ASSISTING OFFICER - STAR#: 12037 NAME: ELLIOT FLAGG BEAT: 0851R
SUPERVISOR ON SCENE - STAR#: 1734 NAME: PETER MC GLYNN BEAT: 0830R
OTHER SUPPORT - STAR#: 20453 NAME: JOHN HALLORAN BEAT: 5131
OTHER SUPPORT - STAR#: 21128 NAME: JOHN MURRAY BEAT: 5131
OTHER SUPPORT - STAR#: 20563 NAME: DAVID MARCH BEAT: 5121
OTHER SUPPORT - STAR#: 21285 NAME: GREGORY JONES BEAT: 5122
OTHER SUPPORT - STAR#: 20606 NAME: RICHARD HAGEN BEAT: 5165
OTHER SUPPORT - STAR#: 529 NAME: OSVALDO VALDEZ BEAT: 5105
OTHER SUPPORT - STAR#: 62 NAME: EUGENE ROY BEAT: 5100
OTHER SUPPORT - STAR#: 10201 NAME: CARL BRASIC BEAT: 5802
OTHER SUPPORT - STAR#: 8825 NAME: KAMAL JUDEH BEAT: 5802
OTHER SUPPORT - STAR#: 819 NAME: DAVID FRIEL BEAT: 5880
OTHER SUPPORT - STAR#: 20201 NAME: MATTHEW RICKHER BEAT: 5885
OTHER SUPPORT - STAR#: 1303 NAME: DANIEL GALLAGHER BEAT: 5120
ASSISTING OFFICER - STAR#: 20555 NAME: ROBERTO GARCIA BEAT: 5122
- STAR#: 120 NAME: DAVID MC NAUGHTON BEAT: 41
- STAR#: 13 NAME: JAMES O DONNELL BEAT: 0800
- STAR#: 107 NAME: DENNIS WALSH BEAT: 0890
- STAR#: 14193 NAME: MAHMOUD HALEEM BEAT: 0865B
- STAR#: 13516 NAME: IVAN LOPEZ BEAT: 0865B
- STAR#: 10333 NAME: PATRICK KENAH BEAT: 0865C
- STAR#: 14393 NAME: ANDRES ZEPEDA BEAT: 0865C
- STAR#: 13882 NAME: ROBERT SHULTZ BEAT: 0865C

	Star No	Emp No	Name	User	Date	Unit	Beat
Approving Supervisor	1381	[REDACTED]	FRANKO, Stephen, D	[REDACTED]	21 Oct 2014 05:18	008	
Detective/Investigator	20563	[REDACTED]	MARCH, David, M	[REDACTED]	21 Oct 2014 15:01	610	
Reporting Officer	4484	[REDACTED]	FONTAINE, Dora	[REDACTED]	21 Oct 2014 04:32	008	0841R



CITY OF CHICAGO OFFICE OF INSPECTOR GENERAL
740 North Sedgwick Street
Suite 200
Chicago, Illinois 60654

RECEIPT FORM

OIG FILE NO. 15-0564

ON

23 JULY 2016

DATE

AT

1006

TIME

STEPHEN FRANKO

NAME

SERGEANT

TITLE

<input type="checkbox"/> SEIZED FROM	<input type="checkbox"/> RECEIVED FROM	<input type="checkbox"/> RETURNED TO	<input checked="" type="checkbox"/> RELEASED TO
NAME		TITLE	DEPT.
Stephen Franko		Sergeant	Chicago Police Department

THE FOLLOWING ITEM(S):

1. A copy of Officer Dora Fontaine's October 21, 2014 Original Case Incident Report for R.D. No. HX475653.

ACKNOWLEDGEMENT

I hereby acknowledge receipt in writing of the above-listed item(s).

Signature

Date

23 JUL 16

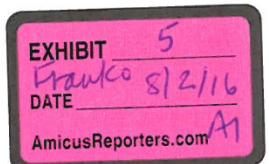
Printed Name

STEPHEN FRANKO

Time

1006

WITNESSES



TACTICAL RESPONSE REPORT/Chicago Police Department

1. DATE OF INCIDENT 20-OCT-2014		TIME 21:57:00	2. ADDRESS OF OCCURRENCE 4112 S PULASKI RD CHICAGO, IL 60632			3. LOCATION CODE 304	4. REPORT NUMBER 0815			
SUBJECT INFORMATION MEV INVO-D DNA	5. POSITION 9161	6. LAST NAME VAN DYKE	7. FIRST NAME JASON D	8. STAR NO. 9465	9. SEX <input checked="" type="checkbox"/> M <input type="checkbox"/> F	10. RACE/COLOR WHI	11. AGE 1978	12. HT 602	13. WT 180	
	14. DATE OF APPT. 25-JUN-2001	15. EMPLOYEE NO. [REDACTED]	16. UNIT & BEAT OF ASSIGNMENT 008 0845R	17. DUTY STATUS <input checked="" type="checkbox"/> 01 On <input type="checkbox"/> 02 Off <input type="checkbox"/> 01 Hr <input checked="" type="checkbox"/> 02 No	18. MEMBER IN JAIL/HOLD <input checked="" type="checkbox"/> 01 Yes <input type="checkbox"/> 02 No	19. MEMBER IN UNIFORM <input checked="" type="checkbox"/> 01 Yes <input type="checkbox"/> 02 No				
	20. LAST NAME MCDONALD	21. FIRST NAME LEQUAN	22. MT <input checked="" type="checkbox"/> 01 M <input type="checkbox"/> 02 F	23. SEX <input checked="" type="checkbox"/> BLK	24. RACE 25. D.O.B. 25-SEP-1997	26. HT 601	27. WT 185			
	28. ADDRESS IL 60637	29. TELEPHONE NO.	30. WAS SUBJECT ARMED WITH OTHER CUTTING INSTRUMENT, OTHER (SPECIFY) <input checked="" type="checkbox"/> 01 Yes <input type="checkbox"/> 02 No	31. SUBJECT INJURED? <input checked="" type="checkbox"/> 01 Yes <input type="checkbox"/> 02 No	32. SUBJECT ALLEGED INJURY? <input checked="" type="checkbox"/> 01 Yes <input type="checkbox"/> 02 No					
	33. WHERE WAS MEDICAL TREATMENT OBTAINED? MOUNT SINAI HOSPITAL	34. BY WHOM? DR. PITZEL	35. CONDITION <input checked="" type="checkbox"/> 03 Hospitalized <input type="checkbox"/> 04 Not Hospitalized	36. CHARGES PLACED <input type="checkbox"/> DNA	37. CB NO. 44 NO. <input type="checkbox"/> DNA					
	38. DNA									
	39. DNA									
	40. WEAPON DISCHARGE INCIDENT (Check all that apply)									
	41. WEAPON TYPE <input checked="" type="checkbox"/> 01 REVOLVER <input type="checkbox"/> 02 RIFLE <input type="checkbox"/> 03 SHOTGUN <input type="checkbox"/> 04 SEMI-AUTO PISTOL <input type="checkbox"/> 05 CHEMICAL WEAPON <input type="checkbox"/> 06 TASER (Probe Discharge) <input type="checkbox"/> 07 OTHER	42. INCIDENT OCCURRED <input type="checkbox"/> Indoor <input checked="" type="checkbox"/> Outdoor		43. LIGHTING CONDITIONS <input type="checkbox"/> 01 Daylight <input type="checkbox"/> 02 Night <input type="checkbox"/> 03 Dawn <input type="checkbox"/> 04 Dusk <input checked="" type="checkbox"/> 05 Poor Artificial	44. WEATHER CONDITIONS CLEAR					
		45. MAKE/MANUFACTURER SMITH & WESSON US-1 (BODYGUARD CLASS SPECIAL)		46. MODEL 5943	47. BARREL LENGTH 5	48. CALIBER/GAUGE 9 MM				
49. TASER DART ID NO. TDU5969	50. WEAPON SERIAL NO. (Include Letters) 628361	51. CHICAGO GUN REG. NO. 95380037	52. IL FIREARM OWNER ID. NO.	53. HANDGUN CERTIFICATE NO.						
54. SPECIAL WEAPON CERTIFICATE NO.	55. PROPERTY INVENTORY NO.	56. TYPE OF AMMUNITION USED Department Issued	57. NO. OF WEAPONS DISCHARGED BY THIS MEMBER. 1	58. TOTAL NO. OF SHOTS MEMBER FIRED 16						
59. WHO FIRED FIRST SHOT <input checked="" type="checkbox"/> 01 MEMBER <input type="checkbox"/> 02 OFFENDER	60. WAS FIREARM RELOADED DURING INCIDENT <input checked="" type="checkbox"/> 01 YES <input type="checkbox"/> 02 NO	61. NO. OF CARTRIDGES/SHOT SHELLS RELOADED 15	62. HOW WAS MEMBER'S HANDGUN WORN <input checked="" type="checkbox"/> 01 RT SIDE (WAIST) <input type="checkbox"/> 02 LT SIDE (WAIST)	63. DID MEMBER USE SIGHTS <input type="checkbox"/> 01 YES <input checked="" type="checkbox"/> 02 NO						
64. DESCRIBE PROTECTIVE COVER USED (LIGHT POLES, DOORWAYS, CAR FURNITURE, ETC) NONE	65. SPECIFY METHOD/EQUIPMENT USED TO RELOAD BY MAGAZINE			66. DISTANCE BETWEEN INVOLVED MEMBER & OFFENDER WHEN FIRST SHOT WAS FIRED <input type="checkbox"/> 01 0 - 5 FT <input type="checkbox"/> 02 6 - 10 FT <input checked="" type="checkbox"/> 03 10 - 15 FT <input type="checkbox"/> 04 OVER 15 FT						
68. PERSON/OBJECT STRUCK AS RESULT OF THE DISCHARGE OF MEMBERS WEAPON <input checked="" type="checkbox"/> 01 PERSON <input type="checkbox"/> 02 OBJECT <input type="checkbox"/> 03 BOTH <input type="checkbox"/> 04 UNKNOWN	69. POSITION OF MEMBER DISCHARGING WEAPON <input checked="" type="checkbox"/> 01 STANDING <input type="checkbox"/> 02 LYING DOWN <input type="checkbox"/> 03 SITTING <input type="checkbox"/> 04 KNEELING <input type="checkbox"/> 05 OTHER (SPECIFY)									
72. CASE INFO. NOTIFICATIONS (OC OR TASER INCIDENT): <input type="checkbox"/> OEMC <input type="checkbox"/> DSS & LT/DIST. OF OCCUR. NOTIFICATIONS (FIREARM INCIDENT): <input checked="" type="checkbox"/> OEMC <input checked="" type="checkbox"/> DSS/DIST. OF OCCUR & OCIC	<input type="checkbox"/> CPIC <input type="checkbox"/> DET. DIV.									
Members will ensure that all required notifications and all witnesses to this use of force are documented in the appropriate case report.										
73. REPORTING MEMBER (Print Name) VAN DYKE, JASON D 21-OCT-2014 04:41:45	STAR/EMPLOYEE NO. 9465	SIGNATURE [REDACTED]				74. REVIEWING SUPERVISOR (Print Name) FRANKO, STEPHEN D 0-11-207 (REV. 10/02)	STAR NO. 1381	SIGNATURE [REDACTED]	DATE REVIEWED 21-OCT-2014 04:44:58	

EXHIBIT 6
Franko 8/24/16
DATE
AmicusReporters.com A1

1429315878
10. EVENT NO.

HX475653
71. RID. NO.

LIEUTENANT OR ABOVE/OCIC REVIEW

THE ON-CALL INCIDENT COMMANDER (OCIC) WILL COMPLETE THE REVIEW SECTION FOR 1) ALL INCIDENTS INVOLVING THE DISCHARGE OF A FIREARM BY A DEPARTMENT MEMBER, 2) ALL INCIDENTS INVOLVING THE SERIOUS INJURY OR DEATH OF A MEMBER OF THE PUBLIC, SUBSEQUENT TO INTERACTIONS WITH A DEPARTMENT MEMBER, 3) ANY LESSER USE OF FORCE BY A DEPARTMENT MEMBER WHEN THAT USE OF FORCE STEMS FROM THE SAME INCIDENT DESCRIBED HEREIN OR 2.

THE ASSIGNED INVESTIGATING SUPERVISOR THE RANK OF LIEUTENANT OR ABOVE FROM THE DISTRICT OF OCCURRENCE WILL COMPLETE THE REVIEW SECTION FOR ALL OTHER INCIDENTS.

75. SUBJECT'S STATEMENT REGARDING THE USE OF FORCE

DHA

REFUSED

UNABLE TO INTERVIEW (Specify Reason)

Subject is deceased.

76. LIEUTENANT OR ABOVE/OCIC RATIONALE FOR BOX 77 FINDING

Based upon information available at the time of this report it is the preliminary determination of the undersigned that Officer Van Dyke fired his weapon in compliance with Department policy. Officer Van Dyke fired his weapon in fear of his life when the offender while armed with a knife continued to approach and refused all verbal direction.

77. LIEUTENANT OR ABOVE/OCIC FINDING BASED UPON CURRENTLY AVAILABLE INFORMATION:

I HAVE CONCLUDED THAT THE MEMBER'S ACTIONS WERE IN COMPLIANCE WITH DEPARTMENT PROCEDURES AND DIRECTIVES.

I HAVE CONCLUDED THAT FURTHER INVESTIGATION IS REQUIRED.

LOG NO./CRNO. 1072125 OBTAINED

78. LIEUTENANT OR ABOVE/OCIC (Print Name)

MC NAUGHTON, DAVID R

SIGNATURE

DATE COMPLETED TIME
21-OCT-2014 04:58:37

79. DISTRIBUTION OF ORIGINAL TRR:

A TRR PACKET, INCLUDING THE TRR AND COPIES OF THE BELOW LISTED ATTACHMENTS WILL BE FORWARDED TO THE INDEPENDENT POLICE REVIEW AUTHORITY

ATTACHMENTS - PHOTOCOPIES OF:

CASE REPORT
 ARREST REPORT

OFFICER BATTERY REPORT
 IO-FROM SUBJECT REPORTS FROM DEPARTMENT WITNESS(ES)

IOD REPORT
 CR INITIATION REPORT

80. TOTAL TRRs THIS EVENT No

1

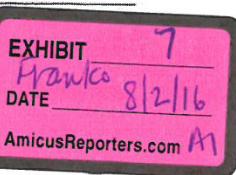
OFFICER'S BATTERY REPORT
CHICAGO POLICE DEPARTMENT

RD NO HX475653

INSTRUCTIONS: This form is to be completed for all incidents when: (1) a sworn member is the victim of a murder, aggravated battery, battery, aggravated assault, or assault while performing a police function either on-duty or off-duty, (2) a detention aide is the victim of a murder, aggravated battery, battery, aggravated assault, or assault while in the performance of his or her duties.

"X APPLICABLE BOXES"			
OFFICER INFORMATION		INCIDENT INFORMATION	
NAME (LAST - FIRST - M.I.) GAFFNEY, THOMAS J		<input type="checkbox"/> 1. INDOOR <input checked="" type="checkbox"/> 2. OUTDOOR ADDRESS OF OCCURRENCE 4000 1/2 S KARLOV AVE	
STAR NO. 19958	POSITION POLICE OFFICER	CITY <input checked="" type="checkbox"/> CHICAGO	STATE (If outside Chicago)
DATE OF APPOINTMENT 08-JUL-1996	EMPLOYEE NO. [REDACTED]	LOCATION CODE 304-STREET	BEAT OF OCCURRENCE 0815
UNIT OF ASSIGNMENT 008	BEAT/CALL NO. 0815R	DATE OF OCCURRENCE 20-OCT-2014	TIME 21:56:00
SEX <input checked="" type="checkbox"/> 1. M <input type="checkbox"/> 2. F	RACE WHITE	DAY OF WEEK MONDAY	DOB [REDACTED]
HEIGHT 600	WEIGHT 195	NO. OF OFFICERS BATTERED <u>3</u>	
WERE THERE ASSISTING UNITS ON SCENE? 1. <input checked="" type="checkbox"/> YES 2. <input type="checkbox"/> NO			
IF YES HOW MANY ASSISTING OFFICERS WERE PRESENT AT TIME BATTERY (EXCLUDING YOU OR YOUR PARTNERS)? <u>8</u>			
TYPE OF ASSIGNMENT WHEN BATTERY OCCURRED			
<input checked="" type="checkbox"/> 1. ON DUTY <input checked="" type="checkbox"/> A. UNIFORM, PATROL DUTY <input type="checkbox"/> B. UNIFORM, OTHER DUTY Describe _____ <input type="checkbox"/> C. CITIZEN'S DRESS <input type="checkbox"/> D. TACTICAL <input type="checkbox"/> E. B.I.S. UNIT <input type="checkbox"/> F. SPECIAL EMPLOYMENT <input checked="" type="checkbox"/> G. OTHER _____		WORKING: <input type="checkbox"/> A. ALONE <input checked="" type="checkbox"/> B. WITH ONE PARTNER <input type="checkbox"/> C. WITH MULTIPLE PARTNERS How many? PATROL TYPE: <input checked="" type="checkbox"/> A. SQUAD CAR <input type="checkbox"/> B. FOOT <input type="checkbox"/> C. BICYCLE <input type="checkbox"/> D. APV/MOTORCYCLE <input type="checkbox"/> E. SQUADROL <input type="checkbox"/> F. OTHER	
<input checked="" type="checkbox"/> 2. OFF DUTY <input type="checkbox"/> 3. SPECIAL EMPLOYMENT <input type="checkbox"/> 4. SECONDARY/OTHER			
TYPE OF ACTIVITY			
<input type="checkbox"/> A. AMBUSH - NO WARNING <input type="checkbox"/> B. TRAFFIC STOP/PURSUIT <input type="checkbox"/> C. INVESTIGATING SUSPICIOUS PERSON <input type="checkbox"/> D. DISTURBANCE - DOMESTIC <input type="checkbox"/> E. DISTURBANCE - MENTAL PATIENT <input type="checkbox"/> F. DISTURBANCE - RIOT/MOB ACTION/CIVIL DISORDER <input type="checkbox"/> G. DISTURBANCE - OTHER <input type="checkbox"/> H. MAN WITH A GUN <input type="checkbox"/> I. PURSUING/ARRESTING OFFENDER (Specify) CHARGE _____ IUCR CODE _____		FIREARM USE INFORMATION (Check all that apply): <input type="checkbox"/> A. FIREARM CALIBER <input type="checkbox"/> B. VEHICLE 1. REVOLVER 2. SEMI-AUTOMATIC 3. RIFLE 4. SHOTGUN <input checked="" type="checkbox"/> C. KNIFE/OTHER CUTTING INSTRUMENT <input type="checkbox"/> D. BLUNT INSTRUMENT FIREARM USE INFORMATION (Check all that apply): <input type="checkbox"/> A. OFFICER AT GUNPOINT <input type="checkbox"/> B. OFFICER'S OWN WEAPON OBTAINED <input type="checkbox"/> C. ATTEMPTED TO OBTAIN OFFICER'S OWN WEAPON	
<input type="checkbox"/> J. PROCESSING/TRANSPORTING/GUARDING A PRISONER (Specify) ORIGINAL CHARGE _____ IUCR CODE _____			
<input checked="" type="checkbox"/> K. OTHER			
OFFENDER INFORMATION			
SEX <input checked="" type="checkbox"/> 1. M <input type="checkbox"/> 2. F	RACE BLACK	DOB 25-SEP-1997	CB NO. FIR NO.
WAS THE OFFENDER'S ACTIVITY: DRUG RELATED?			
<input type="checkbox"/> 1. YES <input type="checkbox"/> 2. NO <input checked="" type="checkbox"/> 3. UNKNOWN GANG RELATED? <input type="checkbox"/> 1. YES <input type="checkbox"/> 2. NO <input checked="" type="checkbox"/> 3. UNKNOWN			
NO. OF OFFENDERS PRESENT? <u>1</u>			
TYPE OF INJURY TO OFFICER			
<input type="checkbox"/> A. FATAL <input type="checkbox"/> B. NON-FATAL - MAJOR INJURY (Broken Bones/Gerious Lacerations/Internal Injuries) <input type="checkbox"/> C. NON-FATAL - MINOR INJURY (Bruises/Swelling/Minor Abrasions) <input checked="" type="checkbox"/> D. NONE APPARENT/NONE		WEATHER CONDITIONS	
<input type="checkbox"/> A. DAYLIGHT <input type="checkbox"/> D. DUSK <input checked="" type="checkbox"/> B. NIGHT <input checked="" type="checkbox"/> E. ARTIFICIAL LIGHT <input type="checkbox"/> C. DAWN <input checked="" type="checkbox"/> 1. POOR <input checked="" type="checkbox"/> 2. GOOD		<input checked="" type="checkbox"/> A. CLEAR <input type="checkbox"/> D. FOG / SMOKE / HAZE <input type="checkbox"/> G. OTHER <input type="checkbox"/> B. RAIN <input type="checkbox"/> E. SLEET / HAIL <input type="checkbox"/> C. SNOW <input type="checkbox"/> F. SEVERE CROSS WIND	
APPROXIMATE OUTDOOR TEMPERATURE: <u>50 °F</u>			

CPD-11.451 (REV. 1/04)



Unusual Circumstances Regarding Officer Control Tactics and Safety: (If you need more space use additional sheets).

REPORTING MEMBER - SIGNATURE
GAFFNEY, THOMAS J

STAR NO.
19958

WATCH COMMANDER /UNIT COMMANDING OFFICER- SIGNATURE STAR NO.
MC NAUGHTON, DAVID R 120

CPD-11451 (REV. 1/04)